

**STATEMENT FOR THE RECORD OF  
LIN ELLINGHUYSEN, PRESIDENT, LOCAL 0007  
THE AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES, AFL-CIO  
TOMAH VA MEDICAL CENTER**

**JOINT HEARING OF  
THE COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS OF THE U.S.  
SENATE AND THE COMMITTEE ON VETERANS' AFFAIRS OF THE U.S. HOUSE OF  
REPRESENTATIVES**

**TOMAH VAMC: EXAMINING QUALITY, ACCESS, AND A CULTURE OF OVER-RELIANCE ON HIGH-  
RISK MEDICATIONS**

**MARCH 30, 2015**

On behalf of Local 0007 of the American Federation of Government Employees, AFL-CIO (AFGE), which represents the front line employees at the Tomah VA Medical Center, I want to thank the Chairmen, Ranking Members and Members of the Senate Homeland Security and Governmental Affairs Committee and the House Committee on Veterans' Affairs for holding this hearing on overprescribing of high dosages of opioids.

AFGE 0007 represents approximately 850 medical and mental health professionals and support personnel providing direct patient care at the Tomah VA Medical Center main campus, and outreach clinics in Wisconsin Rapids, Wausau, Lacrosse and Owens. I have worked as a registered nurse at the Tomah VA for 29 years and I have been in a union leadership role at Local 0007 for the past 8 years.

AFGE Local 0007 has been in the forefront of the battle for increased veterans' safety and for a workplace free from oppression of those who speak out for safe, quality patient care. We have waged a long, hard fight to protect veterans by representing employees who have expressed concerns over the prescribing practices of Tomah's Chief of Staff, Dr. David Houlihan who ordered what appeared to many to be excessively high levels of opioids for veterans.

As a result of the many critical reports from AFGE Local 0007 and the front line employees we represent, we have been able to assist Congress, the VA Office of the Inspector General (OIG) and local law enforcement in their efforts to combat the high usage of addictive medications and reported diversion of drugs which have had devastating results for veterans, as well as employees who so bravely questioned this improper care.

AFGE 0007's persistent fact finding and unyielding requests for assistance and change have aided numerous investigations of the actions that placed veterans in harm's way. Additionally, the Union has represented several employees who were wrongfully removed from

employment due to their courageous questioning of opioid's adverse effects upon the veteran patients, in particular, the adverse impact of these prescribing practices on the ability of veterans to engage in their assigned therapies as well as accidents resulting from the decreased level of alertness caused by the ingestion of too many opioids combined with several other drugs.

The employees who chose to speak up and save veterans' lives could only do so because union officials were able to safely speak up on their behalf to protect them from management reprisal that violated federal law, VA policy and our collective bargaining agreement.

The front line employees we represent who come to work every day dedicated to providing veterans with the care they deserve and earned continuously confront a culture that punishes those who voice concerns for patient care. Instead of "See something; Say Something," Tomah VA's management appears to be indoctrinating the employees with "See Something; Shut Up!" As a result, most of the front line employees who witnessed patient harm, including the ordering of large quantities of medications by Dr. Houlihan, faced termination of their employment. Other employees who spoke up to protect veterans made the difficult decision to resign because they found they could not work at the Tomah VA and participate in what they viewed as the practice of ordering unwarranted high dosages of medications.

We continue to see a steady exodus of health care professionals with valuable experience and expertise from the Tomah VA because of this oppressive workplace and corrosive culture. The majority of clinicians who have recently left the Tomah VA have sought transfers to other VA facilities where they will be able to continue to provide veterans with the specialized, expert care they deserve in a more conducive environment free of reprisal and harsh autocratic management practices.

The most vulnerable employees in this type of destructive workplace culture are those with temporary appointments and recent hires still on probationary status because they have very limited protections against retaliatory terminations, suspensions and other unwarranted personnel actions. Management has targeted these employees with the fewest rights to set an example for other employees with permanent status which sends a strong signal as to what will happen to them should they decide to speak up or disagree with care given to veterans.

One of the battles that AFGE 0007 waged against management on behalf of a brave employee who questioned Dr. Houlihan's prescribing practices was particularly difficult. Dr. Christopher Kirkpatrick was a new psychologist at the Tomah VA who had a temporary appointment. He was required to obtain a minimum number of supervisory approved clinical hours, take the State Boards and become licensed within the first two years of his appointment. Management removed Dr. Kirkpatrick ten months after he was hired to work at the Tomah VA because he had questioned the large amounts of narcotics ordered and given to the patients in the PTSD and the Substance Abuse programs. Dr. Kirkpatrick had informed the proper chain of command that he was having difficulty treating the patients in therapy sessions because they

were unable to be alert and engage in therapy due to his concern over what appeared to be possible overmedication. Apparently, his chain of command informed Dr. David Houlihan, Chief of Staff, who did not appear to correct or properly investigate the problem, and was reportedly angry that the issue was even raised. Another incident which prompted Dr. Kirkpatrick's termination involved a veteran who threatened to do great harm to him. As a result of the veteran's threat, Dr. Kirkpatrick documented the threat in the proper manner as the agency directed. The treatment team had informed Dr. Kirkpatrick of their decision to discharge the patient due to his violent threat but apparently Dr. Houlihan overrode that decision. Dr. Kirkpatrick documented each step of what occurred. As a result, a Program Director at that time informed Dr. Kirkpatrick that she "wished he had not done that [documentation]." Subsequently, Dr. Kirkpatrick was fired.

Clearly, Dr. Kirkpatrick, a newly graduated Psychology major with a doctorate degree, had tried to do the right thing. He had informed his superiors that he was concerned about dealing with the complexities of some of the patients assigned to him and their medication levels and had asked for additional support and relief. Tragically, his superiors responded with silence to his quite reasonable concerns, and then terminated him. On the day Dr. Kirkpatrick was fired, he came to me to ask for the union's assistance which I provided. He also asked that the medical center develop a better support system so that others would not have to go through what he experienced at the Tomah VA. As a temporary employee, Dr. Kirkpatrick had no right to independent third party review of his termination or statutory appeal rights requiring management to show just cause for his removal. As a result, after receiving what appeared to be an unfair termination from the Tomah VA, which would clearly affect his ability to find new employment in his field, and after failing to receive any support from management as to his concerns for patient care, Dr. Kirkpatrick went home that day and committed suicide at the age of 38.

In Dr. Kirkpatrick's memory and in support of all VA employees who work in highly stressful positions providing medical and mental health care to veterans, AFGE Local 0007 offers the following recommendations:

- We urge Congress to mandate the development of a comprehensive support system for VA medical and mental health care professionals, that provide needed consultation services with trained professionals as part of their employment, and not to be seen as private treatment. These support services and consultations must maintain strict confidentiality. Currently, all that is offered at the Tomah VA are one or two sessions with a VA provided counselor; after that, employees are left to manage these very intense job duties on their own without time to debrief, refresh or regroup.
- We also request that lawmakers investigate the pervasive use of extended temporary appointments within the VA health care workforce, and the abusive use of terminations and other personnel actions against probationary employees, and mandate additional protections, both statutory and administrative, for these most vulnerable employees who pay the heaviest price when they question the current way of doing things.

- AFGE Local 0007 recommends that lawmakers amend current law to extend the jurisdiction of the Office of Special Counsel (OSC) to cover all federal employees, including VA health care employees appointed under Title 38. In the VA health care system, the vast majority of employees are under Title 38, not Title 5, and therefore do not have many of the same rights to appeal management reprisal and other prohibited personnel practices to the OSC.
- We also urge Congress to take steps to ensure greater accountability for VA front line managers, mid-level managers and upper management who engage in retaliation against whistleblowers and other front line employees who speak up for veterans' needs.
- In addition, we urge Congress to review the current reporting structure for the Chief of Police at VA Medical Centers. Currently, they report to the Medical Center Director, rather than a separate entity that can address mismanagement or staff concerns without interference, such as the alleged illegal drug activity at Tomah.
- Finally, AFGE Local 0007 recommends Congressional action to put in place checks and balances that ensure the safe ordering of opioids and development of guidelines for the safe combining of opioids with other addictive drugs to keep our veterans safe.

Thank you for the opportunity to present the views of AFGE Local 0007 and the front line VA employees we represent on this very important matter.